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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,967	01/18/2002	Gerd Wallukat	3035-105	9960
46002 7590 08/08/2008 JOYCE VON NATZMER PEQUIGNOT + MYERS LLC 200 Madison Avenue Suite 1901 New York, NY 10016				
			EXAMINER LOCKARD, JON MCCLELLAND	
			ART UNIT 1647	PAPER NUMBER
			MAIL DATE 08/08/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/868,967

Applicant(s)

WALLUKAT ET AL.

Examiner

JON M. LOCKARD

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-19 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-3 and 15-17, drawn to peptides of the AT₁ receptor.

Group II, claim(s) 4-5, drawn to antibodies.

Group III, claim(s) 6-11, drawn to a method for screening/producing agents for diagnostic and therapeutic purposes using the human AT₁ receptor.

Group IV, claim(s) 12, drawn to a method for the binding and elimination of autoantibodies in body fluids.

Group V, claim(s) 13, drawn to a method for immunizing with a peptide.

Group VI, claim(s) 14, drawn to immunizing with an antibody.

Group VII, claim(s) 18, drawn to a method for detecting anti- AT₁ receptor antibodies.

Group VIII, claim(s) 19, drawn to a method for producing therapeutic agents using peptides of the AT₁ receptor.

2. The inventions listed as Groups I-VIII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I is directed to peptides of the AT₁ receptor. However, since Fu et al. (Receptors and Channels. 6(2):99-111, 1998; cited by Applicant) teach a peptide corresponding to amino acids 165-191 of the human AT₁ receptor, no special technical feature exists for group I as defined by PCT Rule 13.2, because it does not define a contribution over the prior art. Because the technical feature of Group I is not a special technical feature, and because the technical features of the Groups II-VIII inventions is not present in the Group I claims, unity of invention is lacking. Furthermore, the peptides of Group I and the antibodies of Group II are structurally and functionally different chemical compounds, having different

Art Unit: 1647

structures and activities. Lack of unity is shown because these compounds lack a common utility which is based upon a common structural feature which has been identified as the basis for that common utility.

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

AFHYESQ (SEQ ID NO:1), AVHYQSN (SEQ ID NO:2), SHFYQTR (SEQ ID NO:3), GYYFDTN (SEQ ID NO:4), and ENTNIT (SEQ ID NO:5).

4. Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

5. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

6. The claims are deemed to correspond to the species listed above in the following manner:

AFHYESQ (SEQ ID NO:1): claims 2 and 5
AVHYQSN (SEQ ID NO:2), SHFYQTR (SEQ ID NO:3), GYYFDTN (SEQ ID NO:4), and ENTNIT (SEQ ID NO:5): claims 3 and 5

The following claim(s) are generic: 1, 4, and 6-19.

Art Unit: 1647

7. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the individual peptides are structurally and functionally different chemical compounds, having different amino acid sequences/structures and activities. The antibodies which bind the individual peptides, as well as the methods utilizing the different peptides and/or antibodies, also lack the same or corresponding special technical feature for the same reasons. Lack of unity is shown because these compounds lack a common utility which is based upon a common structural feature which has been identified as the basis for that common utility.

8. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

9. The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

11. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected

Art Unit: 1647

process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

12. In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Sequence Compliance

13. Amino acid sequences are disclosed in claims 3 and 5 without an accompanying sequence identifier (i.e., SEQ ID NO: #). The claims and/or instant specification will also need to be amended so that it complies with 37 C.F.R. § 1.821(d) which requires a reference to a particular sequence identifier (i.e., SEQ ID NO: #) be made in the specification and claims wherever a reference is made to that sequence (See M.P.E.P. 2422.04). Applicant is also advised that the correct format for a sequence identifier is, for example, SEQ ID NO:1.

Advisory Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jon M. Lockard, Ph.D.** whose telephone number is **(571) 272-2717**. The examiner can normally be reached on Monday through Friday, 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Manjunath N. Rao, Ph.D.**, can be reached on **(571) 272-0939**. The fax number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jon M. Lockard, Ph.D.
August 5, 2008

/Jon M Lockard/
Examiner, Art Unit 1647